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NOTIFICATIONS BY GOVERNMENT

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ENVIRONMENT, FORESTS, SCIENCE & TECHNOLOGY DEPARTMENT

(Section-II)

THE APPELLATE TRIBUNAL FOR FORFEITED PROPERTY (PROCEDURE) RULES, 2018

[G.O.Ms.No.57, Environment, Forests, Science & Technology (Section-II), 21st May, 2018.]

NOTIFICATION

In exercise of the powers conferred by sub-section (1) of section 60J read with section 68 of the Andhra Pradesh Forest Act, 1967 (Act No. 1 of 1967) and of all other powers hereunto enabling the Government of Andhra Pradesh hereby makes the following Rules for procedure to be adopted for the functioning of the Appellate Tribunal for Forfeited Property

RULES

1. Short title and commencement.—

(1) These rules may be called the Appellate Tribunal for Forfeited Property (Procedure) Rules, 2018.

(2) They shall come into force at once.

2. Definitions.—In these rules, unless the context otherwise requires,—

(a) "Act" means the Andhra Pradesh Forest Act, 1967 (Act No. 1 of 1967)

(b) "appeal" means an appeal filed under sub-section (1) of section 60-K of the Act;

(c) "appellant" means a person who, being aggrieved by an order made by the competent authority, prefers an appeal to the Tribunal and includes the authorized representative of the appellant;

(d) "authorized representative" means—

(i) in relation to an appellant,—

(A) any person being a relative of the appellant and authorized in writing by the appellant to attend before the Tribunal; or

(B) a legal practitioner entitled to practice in any civil court in India, who is authorized in writing by the appellant to attend before the Tribunal; or

(C) an accountant, being a member of the Institute of Chartered Accountants of India constituted under section 3 of the Chartered Accountants Act, 1949 (Act No 38 of 1949) or the Institute of Cost and Works Accountants of India constituted under section 3 of the Cost and Works Accountants Act, 1959 (Act No 23 of 1959), who is authorized in writing by the appellant to attend before the Tribunal; or

(ii) in relation to a competent authority who is a party to any proceedings before the Tribunal,—

(A) a Law Officer of the State Government;

(B) a Government Pleader or Standing Counsel to the State Government by whatever name called;

(C) any officer of the State Government notified in this behalf by the State Government by notification in the Official Gazette;

(D) any legal practitioner or officer of the State Government authorized in this behalf by the State Government or the competent authority;

(E) any other legal practitioner or officer of the State Government acting on behalf of the person so notified or authorized;

(e) "Bench" means a Bench of the Tribunal constituted under sub-section (1) of section 60-J of the Act;

(f) "Chairman" means the Chairman of the Tribunal;

(g) "competent authority" means Principal Chief Conservator of Forests (Head of Forest Force) of the State of Andhra Pradesh;

(h) "legal representative" means a person who in law represents the estate of a deceased person, and includes any person treated by the Tribunal as representing the deceased person in the proceedings pending before the Tribunal;

(i) "member" means member of the Tribunal and includes the Chairman;

(j) "party" in relation to an appeal means an appellant or the respondent, and the expression "parties" shall be construed to mean the appellant and the respondent;

(k) "Registrar" means the Registrar of the Tribunal and includes such other officer who is authorized by the Chairman to perform the functions of the registrar;

(l) "section" means a section of the Act;

(m) "Tribunal" means the Appellate Tribunal for Forfeited Property, constituted by the State Government under sub-section (1) of section 60J of the Act.

3. Language of the Tribunal.—

(1) The pleadings before the Tribunal may, at the option of the respective parties, be in English or in Telugu.

(2) All orders and other proceedings of the Tribunal may, at the option of the Tribunal, be in English or in Telugu.

4. Headquarters of the Tribunal, etc.—

(1) The Headquarters of the Tribunal shall be at Amaravati, Guntur District of Andhra Pradesh.

(2) Appeals and petitions may be heard at the Headquarters or at the discretion of the Chairman, at any other place.

(3) The office of the Tribunal shall observe such public and other holidays as are observed by the offices of the State Government.

5. Procedure for filing appeals and petitions.—

(1) Any person aggrieved by an order of the competent authority made under section 60C, section 60-F, sub-section (1) of section 60G or section 60H may prefer an appeal to the Tribunal; and every memorandum of appeal shall be in the form annexed to these rules.

(2) A memorandum of appeal shall be in English or in Telugu and shall set forth concisely and under distinct heads the grounds of appeal without any argument or narrative and such grounds shall be numbered consecutively.

(3) Every memorandum of appeal or petition shall be in quadruplicate; and in the case of a memorandum of appeal it shall be accompanied by four copies of the order appealed against, one of which shall be either a certified copy of such order or the order served on the appellant.

(4) The address given at serial number 5 of the form appended to these rules as referred to in sub-rule (1) shall be called the "registered address" of the appellant and shall until duly changed by an application to the Tribunal be deemed to be the address of the appellant for the purpose of the service of all notices, processes and other communications in the appeal and other connected proceedings till the final determination of the appeal and a period of three months thereafter.

(5) In every appeal, the competent authority which passed the order appealed against, shall be impleaded as one of the respondents.

(6) A memorandum of appeal shall be presented by the appellant in person, or when there are more appellants than one by any of them, or by his authorized representative, to the registrar or such other officer as may be authorized in this behalf by the Chairman, or may be sent by registered post addressed to the Registrar.

Explanation.—In this sub-rule, the expression "authorized representative" shall include any person in the employment or a legal practitioner or an accountant who is authorized to appear on behalf of the appellant.

(7) When a memorandum of appeal is sent by registered post, the date of receipt of the said memorandum at the office of the Tribunal shall be the date of filing of the appeal and the registrar shall on every memorandum of appeal, endorse the date on which it is presented or received at the office of the Tribunal and shall sign the endorsement.

(8) When an appeal is presented after the expiry of forty-five days of the receipt of the order served upon the appellant but not after sixty days, it shall be accompanied by an application, supported by an affidavit, setting forth the facts on which the appellant relies to satisfy the Tribunal that he had sufficient cause for not preferring the appeal within forty-five days.

(9) Every petition presented to the Tribunal, including a petition for stay, other than petitions of a formal or routine character, shall be accompanied by an affidavit as also four copies of such documents as are relied upon in support of the petition.

6. Procedure for registration of appeals.—

(1) Every memorandum of appeal filed within forty-five days of service of the order of the competent authority, being in the form annexed to these rules and otherwise in order, shall be registered in a book kept for the purpose called the Register of Appeals and the registrar shall intimate the appellant or his authorized representative accordingly.

(2) If a memorandum of appeal filed under sub-rule (1) is defective, but the defects are minor or technical in character, the registrar may register the appeal provisionally and call upon the appellant to remove the defects within such time as may be specified and upon the defects being removed within such specified time, the registration shall cease to be provisional and the appeal shall be deemed to have been regularly registered under sub-rule (1).

(3) When a memorandum of appeal is presented after the expiry of forty-five days but within a period of sixty days after the date of service of the order of the competent authority, and is otherwise in order, and is accompanied by a petition for condonation of delay, it shall be numbered and registered provisionally subject to the delay being condoned by the Tribunal. Notice of the application for condonation of delay may be given to the respondent, and after hearing the parties, the Tribunal may condone the delay on being satisfied that the appellant was prevented by sufficient cause from filing the appeal in time. The registration of the appeal shall then cease to be provisional and the appeal dealt with as though it has been registered under sub-rule (1).

(4) When the memorandum of appeal is presented after the expiry of forty-five days but within a period of sixty days after the date of service of the order of the competent authority, and is not accompanied by a petition for condonation of delay, the Registrar may register the appeal provisionally and call upon the appellant to file a petition for condonation of delay within such time, as may be specified, and in the event of such a petition being received, it shall be treated as having been received along with the memorandum of appeal and the appeal dealt with in the manner prescribed in sub-rule (3).

(5) When the defects are not removed or a petition for condonation of delay is not filed within the time specified in that behalf, the matter shall be placed before the Tribunal for its orders.

(6) Where a memorandum of appeal is defective in material particulars, the registrar may return the memorandum of appeal specifying the defects to the appellant, or may intimate in writing those defects. On receipt of the memorandum of appeal from the registrar the appellant may within thirty days of its receipt re-submit the memorandum of appeal with defects duly removed or in case of the memorandum of appeal having not been returned to him and defects only having been intimated may appear himself or through Counsel before the Registrar and remove those defects within thirty days. The memorandum of appeal submitted thereafter if found in order may be registered.

(7) When a memorandum of appeal on the face of it appears to have been filed more than sixty days after the date of service of the order of the competent authority on the appellant, the appeal shall not be registered but the appellant shall be called upon by the Registrar to show cause why the appeal should not be dismissed as being out of time.

(8) Every petition for condonation of delay and every memorandum of appeal filed out of time shall be placed before the Chairman who may direct the petition/appeal to be posted before the Tribunal for its orders.

7. Procedure after registration of appeal.—

(1) After an appeal is registered one copy of the memorandum of appeal and annexures thereto shall be served, as soon as possible, on the competent authority either by registered post acknowledgement due, or through a messenger and the parties shall be called upon to file their paper-books within a period of thirty days from the date of receipt of the notice or such further time as may be allowed.

(2) Each party shall file four copies of his paper-book which shall—

(i) be legibly typed or otherwise reproduced by mechanical means;

(ii) contain all documents upon which the party proposes to rely during the course of hearing;

(iii) contain only such documents and material as have been referred, produced or relied upon, before the competent authority;

(iv) have page number serially; and

(v) contain a full index or table of contents.

(3) If the paper-book referred to in sub-rule (2) contain any document in a language other than English or Telugu a true translation thereof in English or Telugu shall be added.

(4) The parties shall be informed of the date and place of hearing of the appeal either by registered post acknowledgement due or by notice served on them through messenger: `
Provided that where the parties or their authorized representatives are present before the Tribunal, it may inform them orally of the date and place of hearing of the appeal.

(5) Any petition for summoning witnesses or documents filed by a party may be heard, if necessary, after giving notice to the other party.

(6) Every requisition, direction, letter, authorisation or written notice to be issued by the Tribunal shall be signed by the Registrar and shall be sent by registered post acknowledgement due or through a messenger.

8. Joint hearing and disposal of appeals.—The Tribunal may, whenever it considers necessary or expedient to do so, hear one or more appeals together and dispose of them by a common order.

9. Grounds which may be taken in appeal.—The appellant shall not, except with the leave of the Tribunal, urge or be heard in support of, any ground not set forth in the memorandum of appeal but the Tribunal, in deciding the appeal shall not be confined to the grounds set forth in the memorandum of appeal or taken with the leave of the Tribunal under this rule:

Provided that the Tribunal shall not rest its decision on any ground other than the grounds set forth in the memorandum of appeal unless the party which may be affected thereby has had a reasonable opportunity of being heard on that ground.

10. Adjournment.—The tribunal may adjourn the hearing of any case to any other date and inform the parties or their authorized representatives appearing on their behalf of the next date and place of hearing of the case.

11. Dismissal of appeal for appellant's default.—Where on the day fixed for hearing or on any other day to which the hearing may be adjourned, the appellant or his authorized representative does not appear when the appeal is called on for hearing, the Tribunal may either dismiss the appeal for default or proceed ex parte:

Provided that where the appeal has been dismissed for default or proceeded with ex parte and the appellant appears thereafter and satisfies the Tribunal that there was sufficient cause for his non-appearance when the appeal was called on for hearing, the Tribunal shall, after giving notice to the respondent, make an order setting aside the dismissal order or the ex parte proceedings and restoring the appeal to its original number.

12. Effect of death, insolvency, etc., on appeal.—

(1) An appeal shall not abate by reason only of the death of an appellant or on his adjudication as an insolvent.

(2) The Tribunal may on an application made in this behalf by a legal representative of a deceased appellant make him a party and proceed with the appeal.

(3) When no application is made within ninety days of the death of an appellant or within such further time as the Tribunal may allow for bringing his legal representative on record, the appeal shall abate.

(4) On the insolvency of an appellant, the appeal may be continued by the assignee or the receiver for the benefit of creditors and if the assignee or the receiver fails to continue the appeal, the Tribunal may on its own motion or on an application by the respondent, dismiss the appeal.

13. Remand of case by the Tribunal.—

(1) The Tribunal may, whenever it considers it necessary, set aside an order of the competent authority and remand the case to the competent authority for fresh determination in the light of such directions as it may give.

(2) The Tribunal may if it considers necessary at any stage of the proceedings call for a report or finding from the competent authority on such matters as it may specify.

(3) A copy of any such report or finding referred to under sub-rule (2) shall be furnished to the parties and they shall be heard thereon before the Tribunal pronounces final orders.

14. Production of additional evidence before the Tribunal.—

(1) The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, before the Tribunal, where—

(a) the competent authority from whose order the appeal is preferred has refused to admit evidence which ought to have been admitted, or

(b) the party seeking to produce additional evidence, establishes that notwithstanding the exercise of due diligence, such evidence was not within his knowledge or could not, after the exercise of due diligence, be produced by him at the time when the order appealed against was passed, or

(c) the Tribunal requires any document to be produced or any witnesses to be examined to enable it to pronounce orders, or for any other substantial cause, or

(d) the Tribunal is satisfied that the competent authority has decided the case without giving a reasonable opportunity to the appellant to adduce evidence on any point, it may allow such evidence or document to be produced, or witness to be examined.

(2) Wherever additional evidence is allowed to be produced by the Tribunal, it shall record the reason for its admission.

15. Hearing of appeals.—The place in which the Tribunal sits for the purpose of hearing appeals shall be deemed to be an open court, to which the public generally may have access so far as the same can conveniently contain them:

Provided that the Tribunal may, if it thinks fit, order at any stage of the hearing of an appeal, that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Tribunal.

16. Pronouncement of order.—After the hearing is over, the Tribunal may pronounce its order forthwith, or it may reserve its order and if the orders are reserved, the Tribunal may at any time before final orders are pronounced either on its own motion or on the application of a party order that the appeal or petition be re-heard.

17. Order to be communicated to parties.—Every order of the Tribunal shall be in writing and a copy of every final order of the Tribunal certified as a true copy by the registrar shall be supplied free of cost to the parties as early as possible.

18. Signing of orders.—

(1) Where the decision of the Tribunal is unanimous, a common order shall be signed by all the Members of the Tribunal.

(2) A Member who does not concur with the decision of the majority may deliver a dissenting order.

(3) Where there is a difference of opinion, the decision shall be in accordance with the decision of the majority of Members of the Tribunal.

(4) The decision of the majority shall be reduced to writing and signed by all the members including the dissenting member.

19. Publication of orders.—Such of the orders of the Tribunal as are deemed fit for publication in any authoritative report or the press may be released for such publication on such terms and conditions as the Tribunal may lay down.

20. Orders and directions in certain cases.—Notwithstanding anything contained in these rules, the Tribunal may make such orders or gives such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.

The Appellate Tribunal for Forfeited Property (Procedure) Rules, 2018

Form

(See rules 5 and 6)

BEFORE THE APPELLATE TRIBUNAL FOR FORFEITED PROPERTY,

AMARAVATI, GUNTUR DISTRICT

MEMORANDUM OF APPEAL

Under Section 60-K (1) of the Andhra Pradesh Forest Act,1967

F.P.A. No./M.P. No..................................of......................20.........

(To be filled up by the office of the Appellate Tribunal)

In the Matter of

Shri / Smt...,Appellant;

Vs.

(i) The Competent Authority, Forest department, Andhra Pradesh

(ii) Other respondents, if any............................

1. Authority passing the order appealed against: Competent Authority, Forest Department, Andhra Pradesh Proceedings no.

2. Date of the order.

3. Date of service of the order.

4. Specify whether a hearing in person or through an authorised representative is desired.

5. Registered address of the appellant (including telephone No., if any, for the service of all notices, processes and communications).

6. Address of the Respondent: (i) The competent Authority, Forest Department, Andhra Pradesh

(ii) Other respondents, if any.

7. Section or sub-section of the section of Andhra Pradesh Forest Act,1967 under which the Competent Authority passed the order and which is appealed against:

8. Relief claimed: (i) Specify whether the entire order is disputed:

(ii) If only certain items of properties are disputed, enumerate them in an annexure:

9. Ground of appeal (Annex a separate sheet if space is not sufficient).

(Signature of Appellant)

(Signature of Authorised Representative, if any)

Verification

I,..,the appellant / authorised representative of the appellant, do hereby declare that what is stated above is true to the best of my knowledge, information and belief. Verified today the..............................day of.......................,20..........

Place..................................

Date.................................. .... (Signature of the appellant or his authorised representative)

Notes.—(1) The memorandum of appeal should be filed in quadruplicate accompanied by four copies of orders appealed against (one of which shall be a certified copy of the order appealed against or the original copy of it served on the appellant). Any enclosure will also be in quadruplicate.

(2) The memorandum of appeal should be written in English or in Telugu and should set forth concisely and under distinct heads the grounds of appeal and should be without any argument or narrative and such grounds should be numbered consecutively.

(3) It is enough if the memorandum of appeal is signed either by the appellant or the authorised representative. Where it is signed by the authorised representative, it should be accompanied by an authorisation of the appellant in his favour.

G. ANANTHA RAMU,
Principal Secretary to Government.

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